

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

14-MD-2543 (JMF)

14-MC-2543 (JMF)

This Document Relates to All Actions
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ORDER NO. 29

JESSE M. FURMAN, United States District Judge:

[Order Regarding the Effect of the Consolidated Complaints]

This matter is before the Court to address the effect of the two Consolidated Complaints filed by Lead Counsel on October 14, 2014 (14-MD-2543, Docket Nos. 345, 347) on the claims of plaintiffs in economic loss complaints who are not named as plaintiffs in those consolidated pleadings. In Order No. 7, the Court observed that Lead Counsel should review all the existing complaints and “file a consolidated or master complaint with claims on behalf of the class or classes, as appropriate. After doing so, any counsel who believed that their claims should have been included, but were not, would have an opportunity to object.” (14-MD-2543, Docket No. 215 at 2-3). In Order No. 8, the Court confirmed and refined this view, ordering Lead Counsel to draft and circulate a “Consolidated Complaint with respect to all claims alleging economic loss.” (14-MD-2543, Docket No. 249 at 5). Order No. 8 further provided for a period of time for plaintiffs who objected to the Consolidated Complaints to do so. (*Id.*).

On October 14, 2014, Lead Counsel filed two Consolidated Complaints. (14-MD-2543, Docket Nos. 345, 347). The first Consolidated Complaint was with respect to economic loss claims concerning GM-branded vehicles (manufactured by either General Motors Corporation (“Old GM”) or General Motors LLC (“New GM”)) that were acquired July 11, 2009 or later. The second Consolidated Complaint was for vehicles manufactured by Old GM and purchased

before July 11, 2009. In each, New GM was the sole defendant. Each of the Consolidated Complaints included the following caveat:

This pleading neither waives nor dismisses any claims for relief against any defendant not included in this pleading that are asserted by any other plaintiffs in actions that have been or will be made part of this MDL proceeding, except by operation of the class notice and (with respect to any 23(b)(3) class) any opt-out provisions on claims or common questions asserted in this Complaint and certified by this Court. (14-MD-2543, Docket No. 345 at 1; 14-MD-2543, Docket No. 347 at 2).

The Consolidated Complaint as to vehicles manufactured by Old GM and purchased before July 11, 2009, further alleges that “[c]ertain claims for certain parties may, consistent with 28 U.S.C. § 1407 and the caselaw thereunder, be matters for determination on remand by transferor courts.” (14-MD-2543, Docket No. 347 at 2).

The Court and certain of the parties are concerned that the above language in the Consolidated Complaints may create an ambiguity as to status of the claims made by plaintiffs who are not named as plaintiffs in the Consolidated Complaints, some of whom asserted different economic loss claims and/or named other defendants.

As is clear from the Court’s orders, the Court’s intent was that the consolidated complaints “would streamline and clarify the [economic loss] claims and help eliminate those that are duplicative, obsolete, or unreflective of developing facts or current law.” (Order No. 7, 14-MD-2543, Docket No. 215 at 3). Having both the Consolidated Complaints and those remaining claims pending would frustrate that purpose. In order to avoid any ambiguity, by this order the Court confirms the status of any economic loss claims not included in the Consolidated Complaints.

It is therefore ordered that any economic loss allegations, claims, and defendant(s) not included in the Consolidated Complaints are hereby dismissed without prejudice (1) upon the

effective date of this Order for complaints already transferred to or filed in MDL 2543, and (2) 60 days following the date of transfer or filing for complaints that are transferred to or filed in MDL 2543 after the date of this Order but prior to June 4, 2015. For any claims dismissed pursuant to the preceding sentence, the statute of limitations shall be tolled from the date of dismissal to June 4, 2015. If any plaintiff whose claims are dismissed pursuant to this paragraph objects to dismissal of his or her allegations, claims, or any defendant(s) not named in the Consolidated Complaints, then such plaintiff may seek leave with the Court to reinstate his or her allegations or claims or the addition of such dismissed defendant(s) upon a showing of good cause within 14 days of the dismissal without prejudice. No motion or responsive pleading to any claims reinstated by the Court shall be due unless and until ordered by the Court.

Lead Counsel shall have until June 4, 2015 (*i.e.*, 30 days after May 5, 2015, the expected date for substantial completion of Phase One discovery pursuant to Order No. 20) to seek leave of Court to amend the Consolidated Complaints based upon discovery or other developments in the case after the date of this Order, including any rulings by the United States Bankruptcy Court for the Southern District of New York. Thereafter, it shall be presumed that no further amendment will be permitted, except as to factual matters and claims that are alleged for the first time in cases that are transferred to or filed in the MDL after June 4, 2015. Any claims and defendant(s) that are dismissed without prejudice and reinstated pursuant to the preceding paragraph, but which are not included in any amendment of the Consolidated Complaints filed by June 4, 2015, shall be deemed dismissed with prejudice as of the later of (a) June 4, 2015 or (b) 90 days following the date the complaint is transferred to or filed in MDL 2543.

For any complaint transferred to or filed in MDL 2543 after June 4, 2015 (a “Post-June 4, 2015 Complaint”), Lead Counsel shall have 60 days following transfer or filing to seek leave to

amend the Consolidated Complaints, for good cause shown, to address any factual matter, claims and/or defendant(s) raised for the first time in such Post-June 4, 2015 Complaint. If Lead Counsel do not seek leave to amend the Consolidated Complaints within the 60-day period, or if the requested amendment is denied by the Court, then any allegations, claims, and/or defendant(s) in the Post-June 4, 2015 Complaint not included in the Consolidated Complaints shall be dismissed with prejudice at the expiration of the 60-day period or the Court's order denying the amendment, whichever occurs first.

A list of the complaints to be dismissed without prejudice by the terms of this Order is attached hereto as Exhibit A.

SO ORDERED.

Date: December 18, 2014
New York, New York



JESSE M. FURMAN
United States District Judge

EXHIBIT A

MDL 2543 Cases With Economic Loss Allegations and/or Claims

I. Economic Loss Cases To Be Dismissed

Alers v. General Motors LLC, No. 2:14-cv-07258-JVS-AN (C.D. Cal.)

Andrews v. General Motors LLC, No. 5:14-cv-01239-ODW-AJW (C.D. Cal.)

Arnold, et al. v. General Motors LLC, et al., No. 1:14-cv-02882-RMD (N.D. Ill.)

Ashbridge v. General Motors LLC, et al., No. 2:14-cv-00463-RCM (W.D. Pa.)

Ashworth, et al. v. General Motors LLC, No. 2:14-cv-00607-JHE (N.D. Ala.)

Balls, et al. v. General Motors LLC, No. 2:14-cv-02475-JVS-AN (C.D. Cal.)

Bedford Auto v. General Motors LLC, No. 2:14-cv-11544-GCS-DRG (E.D. Mich.)

Belt v. General Motors LLC, et al, No. 1:14-cv-26520 (S.D. W.Va.)

Bender v. General Motors LLC, No. 1:14-cv-00134-TLS-RBC (N.D. Ind.)

Benton v. General Motors LLC, No. 5:14-cv-00590-JVS-AN (C.D. Cal.)

Biggs v. General Motors LLC, et al., No. 2:14-cv-11912-PDB-MKM (E.D. Mich.)

Brandt, et al. v. General Motors LLC, No. 2:14-cv-00079 (S.D. Tex.)

Brown, et al. v. General Motors LLC, No. 2:14-cv-02828-JVS-AN (C.D. Cal.)

Burton v. General Motors LLC, et al., No. 5:14-cv-00396-R (W.D. Okla.)

Camlan, Inc., et al. v. General Motors LLC, No. 8:14-cv-00535-JVS-AN (C.D. Cal.)

Childre v. General Motors LLC, et al., No. 2:14-cv-01320-KDE-MBN (E.D. La.)

Coleman v. General Motors LLC, No. 3:14-cv-00220-BAJ-SCR (M.D. La.)

Corbett, et al. v. General Motors LLC, No. 7:14-cv-00139-D (E.D.N.C.)

Cox v. General Motors LLC, et al., No. 2:14-cv-02608-JVS-AN (C.D. Cal.)

Darby v. General Motors LLC, et al., No. 5:14-cv-00676-JVS-AN (C.D. Cal.)

Deighan v. General Motors LLC, et al., No. 2:14-cv-00458-RCM (W.D. Pa.)

DeLuco v. General Motors LLC, No. 1:14-cv-02713-JMF (S.D.N.Y.)

DePalma, et al. v. General Motors LLC, et al., No. 1:14-cv-00681-YK (M.D. Pa.)

DeSutter, et al. v. General Motors LLC, No. 9:14-cv-80497-DMM (S.D. Fla.)

Detton, et al. v. General Motors LLC, et al., No. 3:14-cv-00500-MJR-PMF (S.D. Ill.)

Deushane v. General Motors LLC, et al., No. 8:14-cv-00476-JVS-AN (C.D. Cal.)

Dinco, et al. v. General Motors LLC, No. 2:14-cv-03638-JVS-AN (C.D. Cal.)

Duarte v. General Motors LLC, et al., No. 1:14-cv-21815-JAL (S.D. Fla.)

C. Edwards, et al. v. General Motors LLC, et al., No. 1:14-cv-21949-MGC (S.D. Fla.)

C. Elliott v. General Motors LLC, et al., No. 1:14-cv-11982-WGY (D. Mass.)

L. Elliott, et al. v. General Motors LLC, No. 1:14-cv-00691-KBJ (D.D.C.)

Emerson, et al. v. General Motors LLC, et al., No. 1:14-cv-21713-UU (S.D. Fla.)

Espineira v. General Motors LLC, et. al., No. 1:14-cv-21417-FAM (S.D. Fla.)

Favro v. General Motors LLC, No. 8:14-cv-00690-JVS-AN (C.D. Cal.)

Forbes v. General Motors LLC, No. 2:14-cv-02018-GP (E.D. Pa.)

Foster v. General Motors LLC, et al., No. 1:14-cv-00844-SO (N.D. Ohio)

Fugate v. General Motors LLC, No. 7:14-cv-00071-ART (E.D. Ky.)

Gebremariam v. General Motors LLC, No. 8:14-cv-00627-JVS-AN (C.D. Cal.)

Groman v. General Motors LLC, No. 1:14-cv-02458-JMF (S.D.N.Y.)

Grumet, et al. v. General Motors LLC, No. 3:14-cv-00713-JM-BGS (S.D. Cal.)

Harris, et al. v. General Motors LLC et al., No. 1:14-cv-21919-JAL (S.D. Fla.)

Henry, et al. v. General Motors LLC, et al., No. 4:14-cv-00218-DDB (E.D. Tex.)

Heuler v. General Motors LLC, No. 8:14-cv-00492-JVS-AN (C.D. Cal.)

Higginbotham v. General Motors LLC, et al., No. 4:14-cv-00306-JM (E.D. Ark.)

Holliday, et al. v. General Motors LLC, et al., No. 1:14-cv-00271-ZJH (E.D. Tex.)

Hurst v. General Motors Co., No. 2:14-cv-02619-JVS-AN (C.D. Cal.)

Ibanez, et al. v. General Motors LLC, No. 2:14-cv-05238-JVS-AN (C.D. Cal.)

Jawad v. General Motors LLC, No. 4:14-cv-11151-MAG-DRG (E.D. Mich.)

Johnson v. General Motors LLC, No. 3:14-cv-477 HTW-LRA (S.D. Miss.)

D. Jones v. General Motors LLC, No. 1:14-cv-05850-JMF (S.D.N.Y.)

P. Jones v. General Motors LLC, No. 4:14-cv-11197-MAG-DRG (E.D. Mich.)

Kandziora v. General Motors LLC, et al., No. 2:14-cv-00801-WED (E.D. Wis.)

Kelley, et al. v. General Motors Co., et al., No. 8:14-cv-00465-JVS-AN (C.D. Cal.)

Kluessendorf v. General Motors LLC, et al., No. 1:14-cv-05035 (S.D.N.Y.)

Knetzke v. General Motors LLC, et al., No. 1:14-cv-21673-JAL (S.D. Fla.)

Kosovec v. General Motors LLC, et al., No. 3:14-cv-00354-RS-EMT (N.D. Fla.)

Krause v. General Motors LLC, No. 2:14-cv-13412-DPH-DRG (E.D. Mich.)

Lannon, et al. v. General Motors LLC, et al., No. 1:14-cv-21933-KMM (S.D. Fla.)

LaReine, et al. v. General Motors LLC, et al., No. 2:14-cv-03112-JVS-AN (C.D. Cal.)

Letterio v. General Motors LLC, et al., No. 2:14-cv-00488-RCM (W.D. Pa.)

Leval v. General Motors LLC, No. 2:14-cv-00901-KDE-DEK (E.D. La.)

Levine v. General Motors LLC, No. 1:14-cv-21752-JAL (S.D. Fla.)

Lewis v. General Motors LLC, et al., No. 1:14-cv-00573-WTL-DKL (S.D. Ind.)

Maciel, et al. v. General Motors LLC, No. 4:14-cv-01339-JSW (N.D. Cal.)

Malaga et al. v. General Motors LLC, No. 8:14-cv-00533-JVS-AN (C.D. Cal.)

Markle v. General Motors LLC, et al., No. 1:14-cv-21788-FAM (S.D. Fla.)

Mazzocchi v. General Motors LLC, et al., No. 7:14-cv-02714-NSR (S.D.N.Y.)

McCarthy v. General Motors LLC, et al., No. 2:14-cv-00895-MLCF-KWR (E.D. La.)

McConnell v. General Motors LLC, No. 8:14-cv-00424-JVS-AN (C.D. Cal.)

Mullins v. General Motors LLC, No. 1:14-cv-26740 (S.D. W.Va.)

Nava v. General Motors LLC, et al., No. 8:14-cv-00755-JVS-AN (C.D. Cal.)

Nettleton v. General Motors LLC, et al., No. 4:14-cv-00318-DPM (E.D. Ark.)

Phaneuf, et al. v. General Motors LLC, No. 1:14-cv-03298-JMF (S.D.N.Y.)

Phillip, et al. v. General Motors LLC, No. 3:14-cv-08053-DGC (D. Ariz.)

Ponce v. General Motors LLC, No. 2:14-cv-02161-JVS-AN (C.D. Cal.)

Powell v. General Motors LLC, No. 1:14-cv-00963-DAP (N.D. Ohio)

Ramirez, et al. v. General Motors LLC, et al., No. 2:14-cv-02344-JVS-AN (C.D. Cal.)

Ratzlaff, et al. v. General Motors LLC, No. 2:14-cv-02424-JVS-AN (C.D. Cal.)

Roach v. General Motors LLC, et al., No. 3:14-cv-00443-DRH-DGW (S.D. Ill.)

Robinson, et al. v. General Motors LLC, et al., No. 2:14-cv-02510-JVS-AN (C.D. Cal.)

Rollins, et al. v. General Motors LLC, et al., No. 2:14-cv-13051-RHC-RSW (E.D. Mich.)

J. Ross, et al. v. General Motors LLC, et al., No. 1:14-cv-02148-KAM-JO (E.D.N.Y.)

Roush, et al. v. General Motors LLC, No. 2:14-cv-04095-NKL (W.D. Mo.)

Ruff, et al. v. General Motors LLC, et al., No. 3:14-cv-02375-PGS-DEA (D.N.J.)

Rukeyser v. General Motors LLC, No. 1:14-cv-05715-JMF (S.D.N.Y.)

Saclo et al. v. General Motors LLC, et al., No. 8:14-cv-00604-JVS-AN (C.D. Cal.)

Salazar v. General Motors LLC, et al., No. 5:14-cv-00362-FB (W.D. Tex.)

Salerno v. General Motors LLC, et al., No. 2:14-cv-02132-JD (E.D. Pa.)

Santiago v. General Motors LLC, No. 1:14-cv-21147-KMW (S.D. Fla.)

Satele, et al. v. General Motors LLC, No. 8:14-cv-00485-JVS-AN (C.D. Cal.)

Sauer, et al. v. General Motors, et al., No. 2:14-cv-04080-SDW-MCA (D.N.J.)

Sesay, et al. v. General Motors LLC, et al., No. 1:14-cv-06018-JMF (S.D.N.Y.)

Shollenberger v. General Motors LLC, No. 1:14-cv-00582-YK (M.D. Pa.)

Silvas v. General Motors LLC, No. 2:14-cv-00089 (S.D. Tex.)

Skillman v. General Motors LLC, et al., No. 1:14-cv-03326-UA (S.D.N.Y.)

Smith v. General Motors LLC, et al., No. 3:14-cv-00120-SA-SAA (N.D. Miss.)

Spangler v. General Motors LLC, No. 8:14-cv-00816-PSG-RNB (C.D. Cal.)

Stafford v. General Motors LLC, No. 3:14-cv-01702-THE (N.D. Cal.)

Stafford-Chapman v. General Motors LLC, et al., No. 1:14-cv-00474-MRB (S.D. Ohio)

Stevenson v. General Motors LLC, No. 1:14-cv-05137-UA (S.D.N.Y.)

Taylor v. General Motors Company, No. 9:14-cv-80618-DMM (S.D. Fla.)

Turpyn, et al. v. General Motors LLC, et al., No. 1:14-cv-5328-JMF (S.D.N.Y.)

Villa, et al. v. General Motors LLC, et al., No. 2:14-cv-02548-JCJ (E.D. Pa.)

Williams v. General Motors LLC, et al. No. 2:14-cv-02069-JCZ-KWR (E.D. La.)

Witherspoon v. General Motors LLC, et al., No. 4:14-cv-00425-HFS (W.D. Mo.)

Woodward v. General Motors LLC, et al., No. 1:14-cv-01877 (N.D. Ill.)

Yagman v. General Motors Company, et al., No. 2:14-cv-04696-MWF-AGR (C.D. Cal.)

II. Cases With Economic Loss Allegations and/or Claims To Be Dismissed

Boyd, et al. v. General Motors LLC, No. 4:14-cv-01205-HEA (E.D. Mo.)

Bledsoe, et al. v. General Motors LLC, No. 1:14-cv-07631-JMF (S.D.N.Y.)

Carroll v. General Motors LLC, No. 1:14-cv-01869-TSC (D.D.C.)

Dawson v. General Motors LLC, No. 1:14-cv-01459-DCN (N.D. Ohio)

Duncan v. General Motors LLC, No. 4:14-cv-00597-ODS (W.D. Mo.)

Green, et al. v. General Motors LLC, et al., No. 1:14-cv-00107 (M.D. Tenn.)

Hair, et al. v. General Motors LLC, No. 8:14-cv-00792-JLS-RNB (C.D. Cal.)

Irvin v. General Motors LLC, et al., No. 1:14-cv-00090-JAR (E.D. Mo.)

S. Jones v. General Motors LLC, No. 1:14-cv-01052-CRC (D.D.C.)

Lambeth v. General Motors LLC, No. 1:14-cv-00546-WO-LPA (M.D.N.C.)

Lowe v. General Motors LLC, No. 2:14-cv-00330-RLJ (E.D. Tenn.)

O'Neill, et al. v. General Motors LLC, No. 4:14-cv-01611-AGF (E.D. Mo.)

Proctor v. General Motors LLC, No. 8:14-cv-02403 (M.D. Fla.)

W. Ross v. General Motors LLC, et al., No. 2:14-cv-03670-ADS-ARL (E.D.N.Y.)

Seiderer, et al. v. General Motors LLC, No. 1:14-cv-09431-JMF (S.D.N.Y.)

Stidham v. Stidham, et al., No. 6:14-cv-00226-GFVT (E.D. Ky.)

Vest v. General Motors LLC, et al., No. 1:14-cv-24995-DAF (S.D. W.Va.)

Ward v. General Motors LLC, No. 1:14-cv-08317 (S.D.N.Y.)